

(2) Even assuming the FLSA applies, Plaintiff's claim for back wages for alleged retaliation fails under *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137 (2002) because undocumented workers such as Plaintiff may not recover such damages.

II.
MATERIAL ACCOMPANYING THIS
MOTION FOR SUMMARY JUDGMENT

In accordance with Local Rule 56.6, the declarations, deposition excerpts, and other evidence supporting this Motion for Summary Judgment are contained in an Appendix filed and served simultaneously with this Motion. Additionally, Detail Solutions has simultaneously filed and served a Brief in Support containing arguments and authorities demonstrating that dismissal pursuant to Rule 56 is warranted.

WHEREFORE, Defendant Detail Solutions prays that this Motion for Summary Judgment be granted and that an order be entered dismissing Plaintiff's claims in their entirety based on lack of subject matter jurisdiction under the FLSA. In the alternative, Detail Solutions prays that this Motion for Summary Judgment be granted in part, and that Plaintiff's claim for back pay damages be stricken. Detail Solutions also prays for such additional relief as the Court deems just and proper.

Respectfully submitted,

/s/ Joseph R. Callister

Andrew M. Gould
State Bar No. 00792541
Joseph R. Callister
State Bar No. 24059054

WICK PHILLIPS GOULD & MARTIN, LLP
2100 Ross Avenue, Suite 950
Dallas, Texas 75201
Telephone: (214) 692-6200
Facsimile: (214) 692-6255

**ATTORNEYS FOR DEFENDANT DETAIL
SOLUTIONS**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served upon all counsel of record this 20th day of June, 2012, via U.S. first class mail as follows:

Robert Manteuffel
J.H. Zidell
J.H. Zidell, P.C.
6310 LBJ Freeway #112
Dallas, TX 75240
Attorneys for Plaintiff

Jennifer Snow
Jennifer Lewis
Farrow Gillespie & Heath, LLP
1700 Pacific Ave., Suite 3700
Dallas, TX 75201
Attorneys for the Estate of Charles Austein

/s/ Joseph R. Callister

Joseph R. Callister